

2 face securities fraud charges

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- Joseph Pete

JOHNSON COUNTY (WISH) - Two men who raised money from dozens of local investors face multiple criminal charges after investigators said they created a shell company and did not invest the money the way investors were told.

24-Hour News 8 Partner **The Daily Journal** reports Martin D. McClary, 47, 8716 S. County Road 250W, Trafalgar, and Parry Wayne Clark, 62, 10010 Belle Rive Blvd., Apt. 1703, Jacksonville, Fla., have each been charged with 23 felony counts of securities registration violations, broker-dealer violations and securities fraud.

An investigation found they took at least \$1.6 million in investments from 33 residents, mostly from Johnson County, promised big returns and, in at least a few cases, told investors their money would double in a year, according to the Indiana Secretary of State's Office. Investigators said McClary and Clark ran an investment scheme and spent at least some of investors' money for bills and to pay other investors.

They solicited investments for a medical malpractice insurance company in Florida that was not registered or licensed, according to a probable-cause affidavit. Families invested tens of thousands or hundreds of thousands of dollars that they often pulled from retirement savings accounts, the affidavit said.

Four local families also have filed a civil lawsuit against McClary, Clark and the companies Prosidian LLC of Florida, Prosperity Capital Enterprises LLC of Greenwood and The Ind. Harvest Co. Inc. of Greenwood. The lawsuit says the families lost their entire investments.

In a telephone interview, Clark said he also was a victim and that he hoped the investors would get their money back. McClary told investigators that he worked for Clark.

McClary could not be reached for comment. His attorneys, James Voyles and Aaron Freeman, did not return messages.

Clark said that he didn't know any of the victims, that he had been trying to start a legitimate business and that McClary had misled him. He said that McClary represented himself as someone with extensive investment experience and that the business venture would have worked out if someone else had been bringing in the investment money.

Clark is representing himself in court and has filed a motion to dismiss the charges. His filing argues that he's never met any of the victims.

"The victims should get their money back," he said. "But I'm a victim, too."

Investors include former Johnson County commissioners Joseph DeHart and Troy DeHart, current Commissioner Brian Baird and his wife, Beth Baird, according to the affidavit. The Bairds invested \$450,000 after McClary promised to double their money and said they would be able to withdraw \$30,000 to \$40,000 a year for retirement purposes after leaving it untouched for one year, according to court documents.

Brian Baird, Joseph DeHart and Troy DeHart declined to comment on the case. Troy DeHart said the experience has been difficult for his entire family.

An investigation found that Prosidian was a shell company that was never licensed to sell insurance and didn't have

the big-name investors that Clark claimed it did, according to the affidavit. Clark hired McClary to raise investment money in Indiana, and they communicated by phone and email daily, the affidavit said.

McClary met several of the investors through church, according to the probable-cause affidavit and, in some cases, had known them for years. He told them he was experienced in business and had invested \$500,000 of his own money into the medical malpractice insurance start-up company Prosidian, the affidavit said.

He set up Prosperity Capital Enterprises as a holding company to accept investments for Prosidian and told investors that its office was in Greenwood when it was actually a mailing address he already had, according to the affidavit.

McClary sold investors membership units, or ownership stakes similar to shares in a corporation, in the insurance company that Clark was trying to set up in Florida, according to the affidavit.

He later solicited investments for The Ind. Harvest Co. Inc., a commercial real estate company he formed about a month before Prosidian was dissolved.

An Indiana Secretary of State's Office investigator found that McClary often used religion as a tool and, for instance, told the Bairds that he believed God had given him a gift to help others make money from their investments, according to the affidavit.

McClary personally knew investors, according to the affidavit. For example, he knew Joseph Patton for 25 years, but the two hadn't had any contact for several years until McClary came to him with an investment opportunity he said could double his money in a year, the affidavit said.

He told Patton the minimum he would earn was 18 percent interest and that he had invested \$500,000 of his own money in the business venture, the affidavit said. A year later, he told him that Clark had lost interest in developing the company.

James Peva had known McClary his entire life and was a

close friend of his parents, the affidavit said. McClary contacted him in 2008, telling him he had a surefire investment opportunity that wasn't sensitive to the ups and downs of the stock market.

He told Peva that most of the investors were professional investors, that there was a limited exception for "ordinary" people and that he could get a much higher rate of return than he did from his municipal bonds, according to the affidavit.

Peva invested \$60,000 and later an additional \$2,000, the affidavit said.

But he decided in 2010 that he wanted to withdraw about half his money to invest in gold. McClary didn't respond to his letter and could not be reached at home or work, the affidavit said.

McClary then told him Florida was delaying the company's license and that funds couldn't be released until it was issued, the affidavit said. He later told Peva and other investors that he was working to take over Prosidian and that he would contact them when he had details.

He told them not to try to contact Clark in Jacksonville and that it would only complicate the situation.

Investors were told in late 2010 that Prosidian was having trouble obtaining a license in Florida and that Clark was going to dissolve the company and start a new venture, according to the affidavit. They then had trouble getting in contact with McClary or Clark, even after multiple phone calls, certified letters and threats of litigation, the affidavit said.

A criminal investigation started after an investor filed a complaint with the Indiana State Police.

The investigation found the money was never invested in a medical malpractice insurance company, as investors were told, according to the affidavit. A review of bank records showed that investors' money went to McClary, Clark, other investors and payments such as to CitiCard, the affidavit said.

Investigators found that McClary, Clark, Prosidian and Prosperity Capital Enterprises never were registered to sell

investments in Indiana, and that McClary and Clark did not register any of the investments, as the law requires, the affidavit said.

Whether any money is left to recover remains unclear. Indiana Secretary of State's Office spokeswoman Valerie Kroeger said prosecutors would try to get restitution for the victims, including by seizing any available assets, but couldn't comment on whether there was any money remaining.

Between 2008 and 2010, McClary and Clark solicited investors for a medical malpractice company called Prosidian, according to the affidavit. The company was never licensed to operate in Florida, where they said it was located, the affidavit said.

McClary guaranteed high rates of return that exceeded normal market projections, and many investors told investigators that they had been promised 18 percent interest a year, according to the affidavit. McClary persuaded one investor to invest more of his savings by telling him he could double his money in a year, the affidavit said.

Over a period of up to three years, he told them their investments had produced gains and that business operations were going so well that returns were expected to be higher than originally promised, the affidavit said.

He also told investors that his holding company, Prosperity Capital Enterprises, had an office in Greenwood, and stationery and business cards also listed a location in a strip mall off State Road 135, the affidavit said. But McClary never disclosed that the address was a mailing address he had set up previously, according to the affidavit.

In fall of 2010, McClary set up The Ind. Harvest Co. Inc., a new company he had formed at the same Greenwood address, according to the affidavit. He transferred about \$189,000 that investors thought they had invested in Prosidian, without telling them, the affidavit said.

He persuaded one investor who wanted to invest \$50,000 more in Prosidian that his money would be better off in his new real estate venture and that he was experienced in developing commercial real estate, the affidavit said.

McClary told investigators that Clark had hired him to solicit investors in Indiana for the firm Prosidian, a medical malpractice insurance company that he was trying to start in Jacksonville, Fla., according to the affidavit.

He told an investigator that he told investors the investments would pay a minimum of 18 percent interest quarterly and that the interest proceeds could be reinvested into more shares in the company.

An investigation by the Indiana Secretary of State's Office and the Indiana State Police found emails in which Clark pushed for more investor money, telling McClary that a specific amount was needed that day and encouraging him to "shake the investor tree," the affidavit said.

The Johnson County Prosecutor's Office has charged Clark and McClary each with 19 felony counts of securities registration violations, three felony counts of securities fraud and a charge of broker-dealer violations.

An attorney from the Indiana Secretary of State's office

who specializes in financial crime is prosecuting the case, Johnson County Prosecutor Brad Cooper said.

McClary was arrested in Johnson County, and Clark was arrested in Florida and then taken to the Johnson County jail. McClary was released on \$24,000 bond, and Clark was released on \$150,000 bond.

Pre-trial hearings are scheduled for March.